



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6  
1445 ROSS AVENUE, SUITE 1200  
DALLAS, TX 75202-2733

MAR 05 2014

David Kostroun  
Chief Administrator  
Agriculture and Consumer Protection Division  
Texas Department of Agriculture  
P.O. Box 12847  
Austin, Texas 78711

Dear Mr. Kostroun:

Enclosed is the "End-of-Year Review of the FY 2013 Texas Department of Agriculture Cooperative Agreement for Pesticides".

Review by the Region 6 Environmental Protection Agency pesticides staff was conducted by an on-site visit in Austin with your Pesticides Division Managers and staff during November 21-22, 2013. The reports provided by your staff allowed us to document your program efforts and demonstrate the environmental benefits resulting from those efforts. Thank you for working with us on the national focus towards program accountability and performance measurement.

We have no formal recommendations in regard to the End-of-Year Review. We appreciate the cooperation we receive from you and your staff towards our ongoing partnership. Should you have any questions or comments, please contact Lee McMillan, EPA Project Officer at 214-665-6404.

Sincerely Yours,

A handwritten signature in dark ink, appearing to read "Steve Vargo", written over a horizontal line.

Steve Vargo  
Associate Director  
Multimedia Permitting and  
Planning Division

Enclosure



## **U.S. Environmental Protection Agency**

End of Year Review of the  
FY 2013  
Texas Department of Agriculture Cooperative Agreement for Pesticides

**February 24, 2014**

## **I. BACKGROUND**

### **A. General**

- 1. Project Period:** Start Date: September 1, 2012  
End Date: August 31, 2013
- 2. EPA Assistance Agreement Number:** E-00635513
- 3. Review method:** On-Site Review at the Texas Department of Agriculture Pesticide Division office in Austin, Texas.
- 4. Review participants:**
  - EPA: Lee McMillan, Project Officer, Texas Department of Agriculture
  - State: Randy Rivera, Administrator for Agriculture Protection and Certification  
Jan Fults, Director for Environmental and Biosecurity Programs  
Leslie Smith, Director for Consumer Service Protection  
Michael Kelly, Compliance Coordinator, Structural Pest Control Service  
Perry Cervantes, Coordinator for Pesticide Certification and Compliance  
Rebecca Wendel, Lead Case Preparation Officer
- 5. Review date(s) and location:** The end of year (EOY) review of the Texas Department of Agriculture Pesticides Program occurred November 21-22, 2013 in Austin, Texas.

### **B. Scope of Review**

This is the EOY review for the cooperative agreement between the U.S. Environmental Protection Agency Region 6 (EPA) and the Texas Department of Agriculture (TDA). This review is a joint evaluation as described in the work plan and 40 CFR §35.115. Program accomplishments, effectiveness, problem areas, suggestions for improvement, and any resolutions to problems are described in the sections that follow.

## II. FINANCIAL

### A. Budget Analysis

The following table summarizes funding and expenditures.

<b>Work Plan Component</b>	<b>EPA Funding</b>	<b>State Funding</b>	<b>Total Funding</b>	<b>Unobligated Funds</b>
<b>Enforcement</b> (Incl. FIT)	\$ 880,317	\$ 146,527	\$ 1,026,844	\$10,090
<b>C&amp;T</b>	\$ 109,739	\$ 109,739	\$ 219,478	\$0
<b>Programs</b> (WPS, GW, ES)	\$ 106,729	\$ 18,833	\$ 125,562	\$0
<b>TOTAL</b>	\$1,096,785	\$ 275,099	\$ 1,371,884	\$10,090

<sup>1</sup> WPS = Worker Protection Standard, GW = Ground Water Program, and ES = Endangered Species Program, FIT = FIFRA Inspector Training

**NOTE:** As of December 4, 2013, the Final Financial Status Report (FSR) was received and processed. The cooperative agreement is financially closed. The Close-Out Inquiry was signed by the Project Officer on January 16, 2013.

Due to Sequestration, the Region received funds late in the fiscal year, combined with additional funding process issues; TDA had \$10,090 of unexpended funds. As a result, TDA was not able to complete the work in order to fully utilize the total amount of enforcement funding.

### B. Re-budgeting

There was no re budgeting done by TDA this year.

## III. COOPERATIVE AGREEMENT ADMINISTRATION

### A. Post-award checklist

The post-award checklist is completed by EPA and placed in the TDA Cooperative Agreement file. This documents, as required by the EPA Grant Programs Office, that TDA did use Cooperative Agreement funding from EPA for items outlined in our Government Performance Results Act (GPRA) Goal 4.1, Ensuring the Safety of Chemicals and Preventing Pollution, and Goal 5.1, Enforcing Environmental Laws as well as the Work Program negotiated for the cooperative agreement.

### B. Recommended Actions from our Grant Programs office.

There were no recommendations from our Region 6 Grant Programs office.

#### IV. COMPLIANCE AND ENFORCEMENT

##### A. State Reports

1. Pesticide Assessment Rating Tool (PART), the Enforcement Outcome Measures report was included with the FY 2013 EOY Report from the TDA as required in the FY 2013 Cooperative Agreement. Below is a summary of the final 2013 PART Measures from TDA:
  - a. The first measure indicates that TDA has a repeat violator measure of 9.5%
  - b. The second measure indicates that TDA verified compliance in 35.8% of its enforcement actions out of 889 total enforcement actions.
  - c. The third measure indicates that TDA uses approximately \$3,898.03 for each enforcement action.
2. 5700-33H reports were submitted to EPA Region 6 for FY 2013. These reports provide an annual summary of inspections and enforcement actions in Texas and reflect activities for inspections and enforcement of the Texas Department of Agriculture's Pesticides Division.

TDA enforcement actions for FY 2013 include **185** warning letters and **211** cases where fines were assessed. TDA had no license/certification suspensions, license/certification revocations, or license/certification conditions/modifications. A total of **7,065** inspections were completed by TDA in FY 2013. TDA had a total of **492** stop-sale, seizure, quarantine, or embargo of products. The largest number of inspections completed by TDA included **4,828** Certified Applicator Records inspections, **1,185** Restricted Use Dealer inspections followed by **323** Market Place inspections.

##### B. Case File and Enforcement Action Evaluation

###### 1. Significant Cases (FIFRA Section 27)

There were no FIFRA Section 27 cases in Texas during FY 2013.

###### 2. Routine Cases – other than Worker Protection

EPA staff review all inspection reports from referrals sent to TDA. The federal inspections completed include narratives, receipts for samples, photos of products, labels, invoices, and shipping records. Federal inspections at producer establishments were also conducted by TDA.

The following case and inspection files were reviewed. A State Case Review Checklist was completed for each:

<b><u>Case/Inspection #</u></b>	<b><u>Complainant</u></b>	<b><u>Type</u></b>	<b><u>Outcome</u></b>
Tree Tops Pest Control (Philip Hughes) – Case #: 5011-12-0042	Walter Hammock	Follow-Up / Non-Ag	Notice of Violation -- \$1,000
Pest Patrol– Case #: 5011-13-0135	Sheila Wymer & Sylvia Hernandez	Follow-Up / Non-Ag	Notice of Violation -- \$500
America’s Best Inspection Service (Kenneth Moore) – Case #: 5011-13-0128	Jerry Maldonado	Follow-up / Non-Ag	Notice of Violation -- \$300
DBug Termite and Pest Control (Dennis Blake) – Case #: 5011-12-0216	Texas Dept. of Agriculture	Follow-up / Non-Ag	Notice of Violation -- \$200
Wyndam Creek Apartments (Omar Gonzalez) – Case #: 5011-13-0134	Alvin Hunt	Follow-up / Non-Ag	Notice of Violation -- \$500
Darrell McIntyre – Case #: 2414-13-0036	Texas Dept. of Agriculture	Follow-up / Ag	Notice of Violation -- \$800
Cone Aerial (Randy Alexander) – Case#: 2414-13-0120	Keith Gray	Follow-up / Ag	Notice of Violation -- \$400
Albert Sulak III – Case#: 2414-13-0201	Billy Nors	Follow-up / Ag	Notice of Violation -- \$400
Richard Loyd Underwood – Case#: 2414-13-0128	Eric Herm	Follow-up / Ag / WPS	Notice of Violation -- \$100
Johnny Skalitsky – Case#: 2414-13-0029	Texas Department of Ag	Follow-up / Ag / WPS	Notice of Violation -- \$200A

The case files reviewed were consistent in their content. TDA has made an effort this year to streamline all of its reports to enhance consistency via a structured format for documentation. TDA enforcement actions were consistent with their Enforcement Response Policy penalty matrix.

### **3. Oversight inspections – other than Worker Protection**

EPA did not schedule any oversight inspections with TDA

## **C. Compliance Priority – Worker Protection Standard (WPS)**

### **1. Reports**

- a. The Pesticide Worker Protection Standard (WPS) Inspection and Enforcement Accomplishment Report (Supplemental Form 5700-33H) was included in Appendix I.
- b. The FY 2013 Texas Reporting Form for Pesticide Worker Safety is supplied electronically to OECA.

### **2. Significant WPS Cases (FIFRA Section 27)**

There were no significant WPS cases under Section 27.

### **3. WPS oversight inspections**

There were no WPS oversight inspections.

### **4. WPS Case File evaluation**

WPS case narrative summaries for four cases where administrative orders or other enforcement actions were taken were provided in the TDA end-of-year report. During the site review, two WPS case files were reviewed. Case file documentation supported the enforcement actions. Administrative penalties were assessed to both cases. All reviewed WPS cases had a letter of noncompliance. Uses of a pesticide inconsistent with the labeling were violations found in both cases. One of the cases involved a pesticide safety training violation.

### **5. WPS Compliance Analysis**

The TDA's penalty enforcement actions above did follow TDA's Enforcement Response Policy as written by the agency. Of the total 139 inspections, there were a total of 27 violations and four cases assessed fines for the year that were reported on the WPS 5700-33H form. Of the violations found, from October 1, 2012 to August 31, 2013, there was a total of \$700.00 collected in fines by TDA. The WPS violations found in FY 2013 included 11 for pesticide safety training, one for failing to provide all the required supplies at the decontamination site, three for notice of application, one for early entry, and six violations of central posting; also one warning letter was issued.

TDA highlighted four WPS enforcement actions in their end-of-year report. During the site review, four WPS case files were reviewed. Case file documentation supported the enforcement actions.

During this reporting period, TDA reported one human exposure involving two persons, but did not involve workers or handlers.

## **D. Inspection and Enforcement Support**

### **1. Training**

TDA has 17 inspectors with Federal EPA FIFRA credentials. FIFRA Inspections conducted with Federal credentials are being sent to EPA for review, and are being logged into EPA Region 6's tracking system for federal inspections. The Region 6 Pesticide Enforcement Team conducts inspector trainings for those with Federal EPA credentials, and inspections conducted by these inspectors are reviewed by EPA Region 6.

TDA was the host for the EPA Region 6 Inspector Training Workshop that was held in April 2013 in Lubbock, Texas. Inspectors and managers from pesticide regulatory programs in four of the five states that make up EPA Region 6 were in attendance. 17 TDA inspectors and 1 manager attended this training

### **2. Enforcement Response Policy**

TDA's Pesticide Administrative Penalty Matrix was finalized on June 9, 2000. Texas Agriculture Code (the Code), 76.155 confers administrative penalty authority to the TDA. Section 76.1555(b) requires the TDA to "...establish a schedule stating the types of violations possible under Chapters 75 and 76 of this code and the maximum fine applicable to each type of violation. Pursuant to the provisions of Chapter 76 of the Code, the department has primary responsibility and authority for regulating pesticides in the State of Texas." "TDA may assess penalties not to exceed \$2,000 for each violation, provided that the penalty does not exceed \$4,000 for all violations related to a single incident." TDA uses their existing penalty matrix to assess fines in all cases.

### **3. Risk Based Inspection Scheme**

TDA made a substantial change in the pesticide compliance program toward the end of FY2013. TDA began to prioritize inspections based on the risk that they pose. Data on pesticide inspections for the last 4 years was analyzed and the compliance rates were determined for each type of inspection. Based on this analysis and on knowledge of pesticide uses that may pose a risk that have not been captured in routine inspections, the pesticide program initiated a "risk-based" approach to pesticide inspections. The EPA Region 6 Pesticides Section supplies a listing of all pesticide producing establishments from EPA's Section Seven Tracking System (SSTS) database.



The focus for FY2014 will be on the highest priority inspections and those inspections will be completed with quality and consistency as the goal. These inspections will be more thorough and more time consuming, however, it is hoped that a more comprehensive inspection will result in follow-up inspections from the information gathered. It is more important to spend limited time on those applicators or situations that pose the highest risk. Conducting fewer focused inspections is more important than conducting numerous inspections that pose little, if any risk. WPS has been identified as a “high risk” inspection and will be a primary focus in FY2014 with the implementation of risk-based inspection protocol.

#### **4. Inspection and Enforcement Procedures**

TDA made a substantial change in the pesticide compliance program toward the end of FY2013. TDA reevaluated the goals and resources for all programs in the Agriculture and Consumer Protection division. In FY2013, a new “Command Center” was designed, built and staffed to allow for centralized dispatching of inspectors throughout the state. Previously, the regional offices made the determination as to the inspections or complaints that each inspector in that region was going to conduct. With the new command center and logistics specialists, each inspector will receive specific inspections or complaints to conduct that are decided on a daily basis

EPA did not conduct any joint inspection with TDA in FY 2013. For those inspections that EPA requested narrative reports, TDA provided them.

#### **5. Quality Assurance**

TDA did not report any problems in their FY 2013 Quality Assurance (QA) Annual Report. The QA Program final report was sent to EPA Region 6 Pesticides Section in July 2013. The QAPP and the QMP were also updated and submitted as required to EPA July 2013.

##### **a. QA Audit**

A QA audit was not conducted.

##### **b. Other QA observations**

There were no QA observations.

##### **c. Laboratory visit summary**

EPA Region 6 Pesticides Section did not conduct a laboratory visit.

#### **E. Special activities requested by EPA Region 6**

EPA Region 6 Pesticides Section requested two import inspections. Inspections were completed in a timely manner.

**F. State-specific priority work**

TDA is not undertaking any State-specific priority work.

**G. New Legislation and Regulations**

There have been no recent changes in legislation or regulations or the state.

**H. Action Items from Previous Midyear Review**

EPA had no recommendations from the previous Midyear Review.

**I. Conclusions and Recommendations for Compliance/Enforcement**

There are no formal recommendations for the Enforcement program at this time.

**V. PROGRAMS**

**A. Worker Safety**

**1. Certification and Training of Pesticide Applicators**

**a. Previous Recommendations:**

No previous recommendations were made.

**b. Accomplishments**

**i. Work-Plan Commitments and National Program Priorities**

For FY 2013, TDA reported in the certification plan and reporting database (CPARD) certifying **1,619** commercial applicators and **3,640** private applicators. In addition, TDA recertified **18,125** commercial applicators and **3,837** private applicators during this reporting period. Overall, TDA has a total of **19,755** commercial applicators and **43,864** private applicators. There are 459 more applicators compared to the FY 2012 total of 63,160.

TDA did not report any licenses revoked or suspended during this reporting period. TDA assessed financial penalties to 71 commercial applicators and 28 private applicators. They also issued non financial penalties (warning, advisory letters, etc.) to 166 commercial applicators and 1 private applicator.

The FY 2013 end of year report states that TDA monitored 20 agricultural recertification/training programs and eight structural recertification/training programs. TDA also accredited 1,258 continuing education unit (CEU) courses for recertification during FY 2013. TDA approved 4,589.5 CEU hours during this reporting period. TDA continued working with Texas

AgriLife Extension to develop pools of questions that can be used for recertification examinations.

The Structural Pest Control Service (SPCS) started a new computer-based testing program for structural pesticide applicators and has contracted with PSI Services to conduct examinations. The program allows those who qualify for a license to use online and phone registration for scheduling exams. Twenty-three examination sites are located in Texas with each facility being staffed by PSI employees who monitor the exam process and provide on-site scores after completion. This process has provided improved service to SPCS customers and has reduced SPCS staff time.

In FY 2013, TDA made brochures and other pesticide licensing and enforcement informational materials accessible on the TDA portal to allow inspectors in the field to access a copy when needed in remote locations.

TDA staff meets regularly with the Agricultural and Environmental Workgroup of Texas AgriLife Extension to discuss pesticide applicator certification issues. Coordinators talk and/or exchange emails frequently to discuss issues related to the Worker Safety Programs.

**ii. Additional Program Activities**

TDA has continued working on enhancing their certification and training state plan by adding use category definitions to administrative rules, providing a computer-based examination process, adding a category for soil fumigation and eliminating the category for tributyltin oxide for marine anti-fouling. TDA plans to have these changes finalized and implemented by FY 2014.

The TDA Agricultural Pesticide program developed and published a Request for Proposal to solicit vendors that could provide computer-based pesticide certification examinations state wide. A vendor was selected; however there have been some delays to contractual issues. TDA expects to implement computer-based testing in FY2014.

TDA staff members had the opportunity to attend and participate at EPA's PREP/PIRT trainings courses in Davis (CA), Grand Rapids (MI), St. Paul (MN), and Atlanta (GA) throughout 2013.

**c. State/Tribe Feedback**

The State did not provide any feedback on the EPA's Certification and Training program.

**d. Conclusions and Recommendations**

There are no formal recommendations for the Certification and Training program at this time.

**2. Worker Protection Standard (WPS)**

**a. Previous Recommendations**

There were no previous recommendations in the WPS program.

**b. Accomplishments**

**i. Work-Plan Commitments and National Program Priorities**

TDA continues to focus on activities that support the Worker Protection Standard (WPS) rule. The TDA training of workers and handlers continues to be a priority, along with distributing pesticide safety information in conjunction with their Certification and Training Programs. The TDA issued 1,606 handler cards and 6,125 worker cards during this reporting period. There were 24 worker/handler safety trainings and eight of them were conducted in Spanish by TDA staff. TDA supplied EPA with a listing of all WPS Safety Training conducted by them, outlining date, inspector (trainer), region held, city, county, type of training (worker or handler), and number of people in each training (FY 2013 End of Year Report to EPA, pg 7).

The TDA meets with the Texas AgriLife Extension on a regular basis to discuss their activities related to the Worker Protection Standard Program in Texas. The TDA inspectors routinely distribute EPA worker/handler training materials and the pesticide exposure brochure at worker/handler training sessions. These materials are also distributed during the laws and regulations presentations at the various CEU programs across the state. TDA and AgriLife Extension reviewed the core training/study manuals for the private applicator and the commercial/noncommercial applicator. Updates and improvements were identified. Enhancement of the information provided on WPS was identified as a priority. Both core manuals were revised and updated to include expanded information on WPS and other topics.

TDA inspectors distribute EPA worker/handler training booklets and the pesticide exposure brochures in English and Spanish to WPS-covered establishments on how to obtain compliance assistance materials from EPA's Compliance Assistance Center. This information is disseminated when TDA inspectors conduct WPS worker/handler inspections or trainings. TDA pesticide inspectors disseminated 500 WPS How to Comply CDs throughout the 5 regions of the state.

TDA met with the Southwest Center for Agricultural Health, Injury Prevention & Education at the University of Texas Health Science Center at Tyler, Texas to open communication and to improve mechanisms for disseminating information on pesticide worker safety to migrant clinics and public health service agencies. Improved lines of communication between these entities will benefit agricultural workers and handlers in their efforts to comply with WPS and to address occupational health concerns that may be relevant to pesticide related activities.

**ii. Additional Program Activities**

There are no additional program activities.

**c. State Feedback**

The TDA did not provide feedback during this reporting period.

**d. Conclusions and Recommendations**

There are no recommendations at this time.

**B. Pesticides in Water**

**1. Previous Recommendations**

There were no previous recommendations in the Water Quality program.

**2. Accomplishments**

**a. Work-Plan Commitments and National Program Priorities**

The Pesticide Division of TDA continues to collaborate with the Texas Commission on Environmental Quality (TCEQ), Texas Department of State Health Services (DSHA), and Texas Parks and Wildlife Department to track pesticide impacts on water quality in Texas. TDA does not conduct water sampling for pesticide monitoring; however, TDA monitors complaints, assessments and reports on state's groundwater and surface water. There were no new reports on pesticide contamination of groundwater or surface water incidences of pesticide impairments in Texas. There were also no complaints of pesticide drift into surface water.

TDA works with the Texas Commission on Environmental Quality (TCEQ) to protect ground and surface water in Texas. All Texas databases were identified that contained methods and pesticides of interest in Texas. This was in completion of a request from EPA Office of Pesticide Programs for the water performance measures. Databases of water samples from the state that showed pesticides in water helped TDA and TCEQ identify pesticides of interest (POI's)

in Texas. TDA was not made aware of any new reports of pesticide contamination of groundwater in FY2013. The subcommittee, TDA and TCEQ jointly completed evaluating the 57 pesticides recommended by EPA and the data has been completed in POINTS. The subcommittee will revise the pesticide evaluations as needed when new data is available.

TDA staff participated in several EPA meetings and conference calls on development of the NPDES Pesticide General Permit. TDA also worked with TCEQ on the development of a Texas discharge general permit. Staff provided input and comments to EPA on the Texas permit drafts. The state TPDES permit was approved by EPA and is currently being implemented by TCEQ. No adverse incidents have been reported to TDA since the inception of this program due to the use of pesticides that resulted in unintended consequences in water ecosystems. There were also no reported violations of the TPDES Pesticide General Permit, no incidences of pesticide impairments in surface water, no known complaints of pesticide drift into surface waters or any adverse effects due to pesticide applications affecting surface waters reported to TDA. To date all pesticide TMDLs are for legacy pesticides with natural attenuation being selected as the preferred method of remediation.

TDA is working with landowners and other state and federal agencies in developing best management practices (BMPs) that will prevent the runoff of pesticides, nutrients and bacteria from CAFOs, pastures and cropland into surface and groundwater. TDA staff began a three-year appointment to the Texas Water Conservation Advisory Council which promotes and endorses a variety of Best Management Practices (BMPs) specifically for agriculture in the state.

**c. Additional Program Activities**

At the request of the SFIREG Environmental Quality Issues (SFIREG-EQI) Workgroup, TDA canvassed state agencies dealing with water quality issues to provide a list of pesticides that might be a concern because of their detection in water. TDA staff then compiled and compared these lists with those EPA pesticides which have an Aquatic Life Benchmark. This was to ascertain where there were no benchmarks for particular pesticides and was thus needed. TDA supplied this final list of pesticides of interest from state agencies to SFIREG-EQI that lacked these criteria generated by EPA in the form of Aquatic Life Benchmarks.

Staff from the department participated in the Texas Groundwater Protection Committee Environmental Trade Fair booth to educate the public and environmental professionals on groundwater issues, including the potential for pesticides to enter this system. This two day-conference is Texas' premier environmental educational forum featuring topics such as the drought crisis, oil & gas, air and water quality, waste management, and many more environmental areas.

TDA made significant efforts to establish a relationship with USFWS criminal investigators as resources for any fish or wildlife incidents that would benefit from partnering and collaborating on causes or impacts.

### **3. State Concerns**

TDA did not express any concerns.

### **4. Conclusions and Recommendations**

There are no recommendations at this time.

## **C. Endangered Species**

### **1. Previous Recommendations**

There were no previous recommendations.

### **2. Accomplishments**

#### **a. Work Plan Commitments and National Program Priorities**

In FY 2013, TDA coordinated with the US Fish & Wildlife Service (USFWS) and Texas Parks & Wildlife Department for the reintroduction of the black footed ferret. The purpose of this is to assist Texas ranchers, farmers and landowners to control the black-tailed prairie dog and minimize the use of pesticides.

TDA continues to participate in the Edwards Aquifer Recovery Implementation Program, which intends to enhance the Edwards Aquifer and preserve endangered species. In addition, TDA has been involved in the Interagency Taskforce's Project, the USDA-NRCS Wildlife Subcommittee of the Texas State Technical Advisory Committee and with other federal/state groups to provide technical assistance on conservation issues regarding endangered species.

TDA continued providing information pertaining to endangered Species through their website and CEUs for pesticide applicators. Also, TDA's website provides links to EPA's endangered species program website.

The National Endangered Species Protection Program Implementation Plan implemented a database. This database is called "Bulletins Live!" which is currently operational. TDA currently has 25 bulletins on "Bulletins Live" for the protection of the Northern Aplomado Falcon and the use of two products (Rozol and Kaput-D Prairie Dog Bait [diphacinone]) for prairie dog control.

TDA continues the initiative to work closely with USFWS in Arlington, TX in an effort to understand the program and educate inspectors and the public about the proper use of Rozol. USFWS supplied a fact sheet on anticoagulants as an

outreach tool for the public, applicators, and inspectors. This fact sheet was disseminated in TDA Regions 1 and 4 which have the Northern Aplomado Falcon.

**b. Additional Program Activities**

TDA is currently participating in the Interagency Taskforce's project on Endangered Species Surveys and Protocols. The project goal is to identify best practices for survey protocols for species under review that provide accurate, credible and verifiable data that can be used in making conservation decisions regarding these species.

**3. PART Review Measures**

There were no endangered species PART measures required.

**4. State Changes**

TDA did not have any state changes in 2013

**5. Conclusions and Recommendations**

There are no recommendations at this time.

**C. Regulatory Exemptions and Experimental Use Permits**

In an effort to control Cotton Root Rot and Tawny Crazy Ants, TDA submitted a request for a FIFRA Section 18 emergency exemptions (12-TX-08 & 12-TX-09), to use TopGuard and Termidor SC respectively.

**D. Container and Containment Rule Implementation**

**1. Previous Recommendations**

EPA supports TDA's current compliance strategy for the CC Rule. EPA also expects that the TDA will move into implementation and enforcement of the CC Rule in 2013. Based on TDA's Determination of Adequacy for Pesticide Residue Removal letter dated January 9, 2008, there is an expectation that TDA will conduct Container inspections, make referrals, or take enforcement action as outlined in Attachment 1 of the letter.

At this time TDA does not have any CC Rules for Containment and will be enforcing the federal regulations. The latest implementation guidance for the Containment portion of the CC Rule, dated October 25, 2007, states that the



specific enforcement alternatives available for this scenario are as follows: 1) The State or Tribe could conduct inspections of containment structures at regulated facilities using Federal FIFRA credentials and would refer violations to the Region for enforcement action; and 2) The Region could conduct inspections of containment structures at regulated facilities and take enforcement action under FIFRA. Please see attached guidance document referenced above.

We request that TDA notify EPA Region 6 of their anticipated approach for implementing pesticide containment regulations. The notification can be an e-mail or letter to the EPA Region 6 Project Officer from the head of the appropriate division/section within the TDA. This is not a binding commitment and TDA may decide to change its approach after submitting the letter. If this happens, EPA requests that TDA notify EPA Region 6 Project Officer in the same manner as the initial notification.

EPA is prepared to assist TDA with technical training of state inspectors, developing a state inspection checklist and compliance strategy. Part of the compliance strategy could consist of incorporating CC Rule inspections into TDA's producer establishment routine inspections. EPA is planning further discussion on this matter during mid-year review and workplan negotiations.

## **2. Accomplishments**

During the Mid-Year Review EPA accompanied TDA to conduct a producer establishment inspection and a container/containment inspection. The teamwork proved to be an excellent learning opportunity for both agencies. TDA took significant efforts toward improving inspections for compliance with the federal container/containment (c/c) regulations. The time and efforts taken to improve efficiencies and consistencies in inspections will provide the foundation to meet future goals. TDA conducted 8 container/containment inspections.

## **3. Conclusions and Recommendations**

There are no recommendations at this time.

## **E. Other Programmatic Activities**

TDA did not complete any additional programmatic activities.